IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2050 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE BANK OF INDIA OFFICER'S ASSOCIATION & 6 - Petitioner(s)

Versus

CHIEF GENRAL MANAGER & 1 - Respondent(s)

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Appearance :
MR SHALIN MEHTA for Petitioner(s) : 1 - 7.
RULE SERVED for Respondent(s) : 1,
MR S.N.SHELAT WITH MR PRANAV G DESAI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 22/02/2006

ORAL JUDGMENT

1. The petitioners, namely, State Bank of India Officers Association and its seven members have

filed this petition under Article 226 of the Constitution of India praying for declaration that the action of the respondent bank management in not granting two additional increments to directly recruit officers, is arbitrary, illegal, null and void and violative of Article 14 of the Constitution of India. The petitioners have also sought for the direction to the respondents to grant minimum two additional increments to each directly recruit officers recruited during the period from 03.11.1980 to 1983 to make them equal and to remove anomaly created due to the fitment policy/ revision of salary.

2. The petition was admitted and rule was issued on 21.10.1988. However, the interim relief was refused. The petitioners have thereafter asked for time on several occasions. On 19.04.2002 this Court has passed an order stating that Mr.Shalin Mehta learned advocate appearing for the petitioner, very frankly conceded that the pleadings contained in the petition were not adequate enough to sustain the prayer of the petition. He also conceded that

the evidence in support of the claim made in the petition was not annexed to the petition. He therefore prayed before the Court that matter may be adjourned in order to enable the petitioner to make pleadings and also to produce evidence in support of his pleadings. Since more than 3 ½ yrs. have gone and yet the petitioners have not amended the pleadings suitably nor produced any evidence in support of the pleadings. Be that as it may, the court proceeds to decide the matter on the basis of existing pleadings and materials available on record and on the basis of merits of the matter.

3. It is the case of the petitioners that prior to the recommendation of the Pillai Committee in 1979, there were two groups with respect to the junior officers i.e. Junior Officers Grade-I and Junior Officers Grade-II. Consequent upon implementation of the Pillai Committees recommendations from 01.10.1979, both these posts were merged into one Junior Management Grade-I. Prior to 1979, the clerks who were on the post of junior officers were promoted to junior officers Grade-II, whereas the directly recruited officers

were promoted to the post of Junior Officers Grade-I. After the Pillai Committee's recommendations all officers placed in a particular grade, were equal. Their inter-se seniority was also counted on the basis of date of their grade/scale. The fourth bie-partite settlement with respect to award staff which was published in the year 1984 and which was made effective from 1.7.83, created another problem due to two sets of employees i.e. (i) Officers who were promoted from the post of Clerks after 1.7.83 and (ii) clerks who were promoted to the post of officers before 01.07.1983. Employees and officers who were promoted before 1.7.83 did not get the benefit of settlement and as a result thereof, anomaly was created. The object of fitment policy or revision of salary which has been published and made effective from 1.2.84 was to remove anomaly with respect to the officers who were promoted prior to 1.7.83, however, at the same time, the management has created another anomaly with respect to directly recruited officers, inasmuch as the fourth bi-partite settlement did not in any way touch to them because they were at no point of time

in the clerk cadre whereas new fitment policy has not taken into consideration the problem of directly recruited officers and has created a situation whereby two cases of employees appointed as officers on the same day, one by way of direct recruitment and another by way of promotion, have been treated un-equally and officers who have been promoted from the clerical cadre were getting much more than the officers who have been appointed by way of direct recruit. The petitioners have, therefore, raised their grievance against the action of the respondent bank management in not treating equally the employees who were equal and treating the equal employees unequally. The said action was therefore discriminatory and violative of Articles 14 of the Constitution of India. It is further stated that the impugned order is nothing but total non application of mind.

4. It is also the case of the petitioners that petitioner nos.2 to 7 were all directly recruited officers in the year between 1980 and 1983. There are in all 100 officers in Ahmedabad Circle and the

petitioner no.1 association had decided to ventilate the grievance of their members. The grievance in short was about discriminatory treatment given by the management to the directly recruited officers appointed during the period from 1980 to 1983. It is further stated that due to retrospective effect given to fourth bi-partite settlement, the clerks promoted as officers prior to 1.7.83, did not get anything and got less than what clerks promoted as officers after 1.7.83 got, inasmuch as, settlement though came in 1984, was made effective from 1.7.83. It is further stated that so far as the direct recruit officers were concerned fourth bi-partite settlement did not cover them and for them fitment policy was decided by the bank. It is further stated that in 1983, policy of the bank was that the officers who were promoted from the clerks and getting salary less than Rs.500/- were being fitted in the scale of Rs.700/- and the clerks getting more than Rs.500/- were being fitted as per the fitment formula mentioned in the policy dated 30.05.83. The direct recruits to the post of officers were fitted in the

scale of Rs.860/-. It is further stated that the salary revision was pronounced by the respondent bank on 06.05.1986 by Circular No.PIR:IR:28:86 and in the said salary revision, further clarifications were made by Circular No.PIR:IR:39:86 dated 21.05.1986. New salary revision and/or fitment policy pronounced in May and finalized in October was also made effective retrospectively from the 1st February, 1984.

5. The petitioners have given certain examples to show that direct recruits were senior to the promotees and prior to new fitment policy, they were getting much more than what the promotees were getting. However, after the fitment policy, they were getting less than their junior promotee officers. It is their grievance that under the new fitment policy, the direct recruits have been put to such dis-advantageous position that they were getting much less than their juniors. It is also the case of the petitioner that they have made several representations. However, their representations have been rejected by the bank

management. The petitioners therefore, moved this Court for seeking aforesaid relief from this Court.

6. Affidavit-in-reply is filed on behalf of respondent bank. As stated in the said affidavit in reply the petitioners were not discriminated with respect to pay-scale qua officers who were promoted to the cadre of clerks and were juniors to the direct recruit officers. It is further stated that direct recruit officers have no seniority when they joined services whereas the promotees were given benefits of the services in the clerical cadre when they were promoted and their salary was accordingly fixed. It is further stated that there is no substance in the contention that two sets of employees appointed on the same day, have been treated unequally as at the time of appointment, a directly recruited officer was a new one having no service whereas promoted employee was having long service with the bank and was already employed in the bank. It is further stated that there is no question of any discrimination between these two cadres as the officers who were promoted from the

clerical cadre stood on different footing and they were already working in the bank since long time whereas the direct recruit officers were fresh employees and therefore, they could not be compared with each other. It is further stated that all the direct recruit officers enjoyed the benefits of seniority for all other purpose of promotion, placement and officiating in higher capacity etc. It is further stated that the direct recruited officers were seniors to the promoted officers and were getting preference of the letter irrespective of the salary drawn.

7. It is further stated that for the purpose of further promotion, directly recruited officers were considered first irrespective of the salary drawn. It is therefore, stated that there was no discrimination or anomaly. There was one group of officers who were promotees. They were entitled to certain protection in their salary because of the pay revision made applicable to the clerical cadre. Since directly recruited officers have no service to their credit, they should not claim any such

benefit. It is further stated that clerical cadre employees were given protection of the salary of the clerical cadre which were made applicable to the promotee officers. No such salary scales were available which could be applied to the directly recruited officers. Inter-se seniority was promoted in the case of direct recruits which placed them above the promotee officers in all other matters like promotion, placements, officiating in higher capacity etc. It is further submitted that relief prayed for by the petitioners in the present case cannot be granted.

8. Affidavit in rejoinder was filed on 5.8.1987 wherein the facts stated in the petition were reiterated and the averments made on behalf of respondents were denied. On behalf of the respondents an affidavit-in-sur-rejoinder was filed on 3rd November, 1999 wherein it is, interalia, stated that the petitioner no.1 association is affiliated association of one of the negotiating parties with Indian Bank's Association in finalizing the Fitment policy arrived at for the

promoted officers after suitable deliberations. The Fitment formula for the purpose of promotee officers was worked out by the Indian Bank's Association after due consultation with the said All India Bank Officers' Confederation. It was therefore, submitted that petitioner no.1 could not raise any issue and contention about any alleged discrimination, particularly, when the issues and/or objections pertaining to the post of promotee officers only were duly and properly deliberated by the Indian Banks' Association after due consultation and the said Fitment formula was arrived at after mutually agreeing upon by the petitioners amongst others.

It is further stated that the petitioner nos. 2 to 7 were the members of the petitioner no.1 Association, and, therefore, they could not raise any issue or objection in that regard and they were bound by the said decision alongwith petitioner no.1 association.

9. During the course of arguments, it has been stated before the Court that earlier the Court has

issued the direction to the petitioners to make representations ventilating grievances of the petitioner. It is further stated that the representation was made. It was considered by the committee specially constituted for this purpose and it was decided on 31st July, 2000. Accordingly an affidavit was filed on 13th January, 2006 stating that the above matter came up for hearing from time to time before this Court and in terms of the oral order passed by this Court of 23.06.2000 the Committee was constituted and the petitioners were accorded opportunity for hearing when petitioner no.4 appeared before the Committee on 31.07.2000 and after hearing the petitioner the committee has taken the decision. A copy of the said decision is placed on record alongwith the said affidavit.

10. The issues raised by the petitioners before the Committee were that

(a) The fitment of salary consequent to the wage revision which was made effective from 1st February, 1984, through various clarifications as regard to fitment of officers, a situation arose where two

existing officers (in the same grade/scale) were discriminated inasmuch as one set of officers were given higher pay than other set of officers in the same scale.

(b) There were officers in the Bank placed in JMG Scale I prior to the effective date (i.e. 1st February 1984). These officers were either promoted from Clerical Cadre (promotee) or Directly Recruited (DRO). After giving effect to all provisions of Fitment Formula(s) a situation arose where a junior officer (Promotee) drawing equal or lesser salary than a senior officer (DRO) in JMG Scale 1 till 31st January 1984 was given higher salary. In other words, a higher fitment was given to promotee officer compared to a DRO on 1st February 1984. Thus, two sets of officers in the same scale were discriminated.

(C) Thus, in short, the Bank discriminated between two sets of officers inasmuch as by giving differential fitment in salary on 1st February, 1984. For example, take a case of DRO who joined Bank in 1981 and drawing salary of Rs.950/- as on 31st January, 1984 and two promotees who were

promoted as officer in 1982 and drawing salary of Rs.950/- and Rs.900/- respectively. Consequent to effects of firtment on 1st February 1984 while the two promotees were fitted at Rs.1685/- and Rs.1615/- respectively, the DRO was fitted at Rs.1545/- only.

(d) Due to the 4th Bipartite settlement between the Award Staff and the Bank effective from 1st July 1983 it was found that emoluments of some promotee officers were less than that of clerks having same seniority but who had not opted/were rejected for promotion prior to 1st February 1984 and were subsequently promoted. Thus there was an anomaly between two sets of promotee officers viz. those promoted before the appointed date (i.e. 1st February 1984) and those promoted on or after the appointed date. The anomaly between these two sets of officers in JMG Scale I was rectified by the Bank by giving a higher fitment to officers promoted before the appointed date. By allowing the enhanced refitment to promotee officers to avoid disparity amongst promoted officers, another disparity was caused in the salary of officers in

the same scale which has been described above.

11. The committee has deliberated on all the issues raised in the petition as well as in the personal hearing. While dealing with these issues the Committee formulated three questions to be answered by them.

(i) Can the directly recruited officers be treated equal and at par with the promotee officers for the purpose of fixation of their respective basic pay?

(ii) Does fitment of promotee officer at a stage in the same scale of pay taking into consideration the protection of basic pay in clerical cadre make the directly recruited officers unequal ?

(iii) Can the directly recruited officers and the promotee officers be treated as a class for the purpose of fitment of basic pay on revision of pay or fixation of pay?

12. The committee gave its findings on the above issues and observed that Directly Recruited Officers (DRO) like petitioners are appointed in the Bank based on a selection process which is not applicable to the promotee officers. The

DRO/Probationary Officers are directly recruited on a starting basic pay in the junior management scale of pay which is four stages above the first stage of the pay scale applicable to JMGS-1. There is no such higher starting pay extended to the promotee officers. The officers promoted from clerical cadre are fitted in the scale of pay in the junior management grade taking into consideration the last basic pay drawn in the clerical cadre and it is to be ensured that on promotion a promotee officer does not get less than what he would have drawn as a clerk. It has been stated by the petitioners themselves in Para-1 of the petition before the High Court that certain set of officers promoted earlier were getting less basic pay than those who were promoted later and therefore an anomaly had cropped up consequent upon revision of pay of clerical staff. It is an admitted fact of the petitioners that this discrimination and anomaly was required to be wiped off necessarily. As fitment or the principles of fitment are limited to the promotee officers because of their promotion from clerical cadre to officer cadre, the DRO

cannot be treated at par and the benefit of such fitment cannot be extended to them. The promotee officers and the DRO are coming into junior management scale from two separate channels and therefore, equal treatment cannot be applied or made applicable for officers from two separate channels. In this connection, it is necessary to see whether higher fixation of basic pay by fitment to the promotee officers in the Bank is based on any rationale.

13. The committee has further observed that pay scales of clerical staff were revised w.e.f. 1.7.1983 vide 4th Biepartite Settlement, those for officers were revised w.e.f. 1.2.1984. For workmen staff, upto the 3rd Bipartite settlement the fitment formula in State Bank of India was different from that in other public sector banks in the 3rd Bipartite Settlement pay-scales for award staff in all participating banks, including the State Bank of India, were made uniform Employees of SBI were given adjusting allowance and adjustable DA in order to maintain the differential and protect the

salary drawn by them. The fitment formula from 1978 till 1983 were based on basic pay alone and did not include allowances. However, the position was materially altered vide clause XXI of the Memorandum of Settlement dated 17.09.1984 between the Indian Bank Association and All India Unions of workmen employees and accordingly, an agreement was entered into between State Bank of India and All India State Bank of India Staff Federation on 17.09.1984. It provided, inter alia, that with a view to bringing about uniformity between the employees of State Bank of India and those of other member banks, the Adjusting Allowance payable to clerical, cash department and sub-ordinate staff and the Adjustable D.A. Payable to clerical and cash department staff, who were in the service of the Bank as on 31.12.1979, shall not be payable on and from the 1st July, 1983. The manner in which the compensation will be paid for discontinuing these payments would be that fitment would be two stages above the stage at which they would otherwise be fitted in terms of the Settlement, if they were employees in the clerical and cash department staff

drawing Adjusting Allowance and Adjustable D.A. Such of those employees, who had reached maximum of the scale immediately prior to 1.7.83, were to be paid fixed personal allowance of Rs.190/- p.m. Therefore, the above provision necessitated that officers promoted prior to 1.7.1983, should be provided relief by suitable re-alignment of basic pay as envisaged in Ahmedabad LHO circular dated 21.5.1986 which is based on the guidelines issued by Indian Bank Association on fitment formula for officers in all Public Sector Banks vide IBA letter No.PD/CIR/76/582 dated 8th February 1986. As a consequence of the two additional increments received by award employees, higher fitment was required to be given to promotee officers. Otherwise, officers promoted after 1.2.1984 would have been fitted at higher stages as compared to those who had been promoted much earlier.

14. In view of the above position, the committee took the view

(a) In terms of Rule 30(3) of the 1975 Rules, seniority of officers was based on the date of confirmation in that grade. Thus even before the

DTCS Order, seniority and basic pay were not interdependent.

(b) As per Rule 18 (2) of the DTCS Order, “seniority in a grade shall be reckoned with reference to the date of appointment/promotion in that grade or scale. Again, it is to be noted that the basic pay is not a determining factor for seniority of officers in Junior Management Grade Scale I.

(c) The fitment formula for promoted officers is based on para 6 of enclosure to IBA's letter No.PD/CIR/76/582/265 dated 08.02.1986, and is applicable across the Public Sector Banks and not restricted to State Bank of India alone.

(d) A broad protection of salary drawn as a clerk has to be supplemented by an incentive for performance of higher responsibilities as an officer. If monetary advantage is seen in continuing as a clerk, the incentive for promotion as officer would disappear. It has to be appreciated that consequent upon the revision of salary of clerical staff, it was imperative to give a fitment corresponding to the notional

salary in clerical cadre, and to revise fitment formula for officers promoted before 1.7.1983. Thereby if any time the basic pay of an officer is lower than the basic pay corresponding to his basic pay in the clerical scale on account of increments he would have got in the clerical scale, appropriate adjustment will be made in the officers' basic pay as per the fitment table. In other words, it is not an across the board increase in basic pay, but protection of salaries of specific employees. For those promoted after 1.7.1983, the 2 stage higher fitment in clerical cadre would automatically result in higher fitment in JMGS I Pay-scale.

(e) The correction of such anomaly cannot legitimately become a grievance for Probationary Officers who were recruited directly in 1980 and later as it does not cause any prejudice to them. Seniority of officers in a grade/scale is not dependent on basic pay or total salary drawn but on date of appointment/promotion. The petitioners' reasoning is fallacious and their attempt to link basic pay with seniority is

misconceived.

(f) The promotee officers and direct recruit officers enter the officers cadre through separate channels and the fixation of their respective pay are based on different parameters laid down and hence question of parity and relativity between the two channels does not arise.

(g) No fundamental right of the petitioners was violated. Their seniority had remained undisturbed. The anomalies urged by the petitioners are not real.

15. In view of the above findings given by the committee the claim of the petitioner does not need any consideration.

16. Mr. Shalin Mehta, learned advocate appearing for the petitioner has submitted that the action of the respondent bank smacks discrimination and it is violative of Article 14 of the Constitution of India. He has further submitted that the promotees were fitted in the higher scale considering the length of service in the clerical cadre at the time

when the were promoted. Because of the fitment policy, they were again given two increments more to which they were not entitled. He has further submitted that because of the new fitment policy which has come into force, the promotees have been again fitted in the higher scale. This question arose only with regard to the promotees and DRO who have been appointed as such between 1980 to 1983 and they were promoted in the year 1982. They were already given benefit of their seniority and considering their seniority they were fitted in the scale and therefore to consider them again for higher scale would amount discrimination qua DRO inasmuch, on 1.2.1984 both the sets of employees DRO and promotees are equal. He has further submitted that action of the respondent bank management in not treating equally the employees who were equal, is discriminatory and violative of Article 14 of the Constitution of India. He has further submitted that once the Clerk is appointed as an officer, he ranks himself in the seniority list of officers and, therefore from that date, there is no question of taking into account his

seniority in the cadre of clerk, inasmuch as, he is no more a Clerk after promotion. Mr.Mehta has further submitted that bank's action is also violative of Article 39 (1) (D) of the Constitution of India as though the DRO and the promotee officers were discharging the same duties, they were not paid equal pay for equal work and hence, it is violative of principles of equal pay for equal work. He has further submitted that what one cannot do directly cannot be done indirectly. The new fitment policy indirectly gives the benefit to the Promotee officers which cannot otherwise be given to them. With regard to representation and decision taken by the committee on the said representation, Mr.Mehta submitted that decision merely contains certain details. However, no reasons are given while rejecting the representation of the petitioner. He has therefore, submitted that said decision is violative of principles of natural justice. With regard to the merits of the matter, Mr.Mehta has submitted that respondent bank has changed its stand from time to time which is not permissible in law. Mr.Mehta has

further submitted that the action of the respondent in not treating DRO in the manner in which they were required to be treated is also arbitrary. He has further submitted that exactly identically situated officers were discriminated in the past in the year 1979 and at that time, on a representation being made by the officers, their cases were considered and the anomaly was removed. He has further submitted that the bank management has however, ignored this aspect and past policy has also not been taken into consideration. He has therefore submitted that the action of the respondent bank management is arbitrary, discriminatory and violative of Article 14 of the Constitution of India. He has therefore submitted that the petition deserves to be allowed and the relief claimed therein should be granted by this Court.

17. Mr.S.N.Shelat, learned Senior Counsel appearing for the respondent bank on the other hand has submitted that the committee constituted pursuant to the oral order of this Court has at length

discussed all the issues and has taken the appropriate decision in the matter. The committee has discussed the issues raised by the petitioner, narrated the facts in their true perspectives and arrived at a just and fair conclusion. The same cannot now be interfered with by this Court while exercising its power under Article 226 of the Constitution of India.

18. In support of his submissions, Mr.Shelat has relied upon the decision of Hon'ble Supreme Court in case of Unikat Sankunni Menon Vs. The State of Rajasthan AIR 1968 SC 81, wherein the Court has held that there are two reasons why this grievance put forward on behalf of the appellant has to be rejected. The first is that the appellant comes to the post of a Deputy Secretary from the R.S.S., which is a service distinct and separate from the R.A.S. The methods of recruitment, qualifications, etc, of the two Services are not identical. In their ordinary time scale, the two services do not carry the same grades. Even the posts, for which recruitment in the two Services is made, are to a

major extent, different. The members of the R.S.S., are meant to be employed in the Secretariat only, while members of the R.A.S. Are mostly meant for posts which are outside the Secretariat though some posts in the Secretariat can be filled by members of the R.A.S. In such a case, where appointment is made to the posts of Deputy Secretaries of Government servants belonging to two different and separate services, there can arise no question of a claim that all of them when working as Deputy Secretaries, must receive identical salaries, or must necessarily both be given special pay. It is entirely wrong to think that every one, appointed to the same post, is entitled to claim that he must be paid identical emoluments as may other person appointed to the same post, disregarding the method of recruitment, or the source from which the Officer is drawn for appointment to that post. No such equality is required either by Article 14 or Article 16 of the Constitution.

19. Mr. Shelat has further relied upon the decision of Hon'ble Supreme Court in the case of State of

Andhra Pradesh and others Vs. G. Sreenivasa Rao and Others reported at (1989) 2 SCC 290, wherein it is held that “The right to 'equal pay for equal work' is an accompaniment of equality clause enshrined in Articles 14 and 16. But doctrine of 'equal pay for equal work' cannot be put in a strait-jacket. The abstract doctrine of 'equal pay for equal work' cannot be read in Article 14. Reasonable classification, based on intelligible criteria having nexus with the object sought to be achieved, is permissible. The Court has further held that “Equal pay for equal work” does not mean that all the members of a cadre must receive the same pay packet irrespective of their seniority, source of recruitment, education qualifications and various other incidents of service. When a single running pay scale is provided in a cadre the constitutional mandate of equal pay for equal work is satisfied. Ordinarily grant of higher pay to a junior would ex facie be arbitrary but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. To illustrate, when pay fixation is done under valid statutory rules/executive

instructions, when persons recruited from different sources are given pay protection, when promotee from lower cadre or a transferee from another cadre is given pay protection, when a senior is stopped at efficiency bar, when advance increments are given for experience/passing a test/acquiring higher qualifications or as incentive for efficiency, are some of the eventualities when a junior may be drawing higher pay than his seniors without violating the mandate of equal pay for equal work. The differentia on these grounds would be based on intelligible criteria which has rational nexus with the object sought to be achieved.

20. Mr.Shealt further relied on the decision of the Hon'ble Supreme Court in case of Government of Andhra Pradesh and another Vs. M.Pandurang and others reported at (1996) 7 SCC 11 wherein the juniors has been granted selection grade scale of pay, by necessary consequence, he would draw higher scale of pay, though he happened to be juniors to others. Another candidate was drawing higher scale

of pay due to the length of service in the feeder cadre. It would be grant of special pay under Rule 22(a)(i) of the Fundamental Rules for the purpose of that candidate in the higher promotional post. That would not be a ground to grant parity of scale of pay to the seniors working in the cadre.

21. Lastly, Mr.Shelat has relied upon the decision of the Hon'ble Supreme Court in the case of Government of A.P. And others Vs. V.Veera Raghvan AIR 2000 (SC) 3440, wherein while reiterating the law laid down by the Hon'ble Supreme Court in the case of State of Andhra Pradesh Vs. G.Sreenivasa (Supra) the Court has observed that there is good reason for their drawing more pay than the respondent. In view thereof, neither the interim order nor the final order in the writ petition are justifiable. Accordingly the Hon'ble Supreme Court allowed the appeal setting aside the impugned judgment of the High Court and also dismissed the writ petition.

22. After having heard the learned advocates

appearing for the parties and after having carefully considered their pleadings as contained in the memo of petition, affidavit-in-reply, affidavit-in-rejoinder and affidavit in sur-rejoinder as well as the documents attached therewith and after having minutely examined the committee's report and the authorities cited and relied upon by the parties, the Court is the opinion that the petitioners are not entitled to claim two more increments on the ground of alleged anomaly in fitment policy or on the ground of discrimination between the petitioners and promotee officers, by invoking Article-14 of the Constitution of India. Firstly, the petitioner's learned advocate has conceded before the Court on 19.04.2002 that the pleadings contained in the petition were not adequate enough to sustain the prayer of the petitions. He has also conceded that the evidence in support of the claim made in the petition was not annexed to the petition. Time was sought for to amend the pleadings suitably and to produce evidence in support of the pleadings. Nothing has come on record thereafter.

23. Secondly, as per the oral order made by this Court on 23/06/2000, a Committee was constituted consisting of

(i) The Dy. General Manager and Circle Development Officer at Ahmedabad, LHO.

(ii) The Asstt. General Manager (Personnel and HRD) Ahmedabad LHO

(iii) The Asstt. General Manager (Industrial Relations Department), Corporate Center, Mumbai.

(iv) The Asstt. General Manager (Law), Ahmedabad LHO

The State Bank of India Officers' Association, the petitioner no.1 was advised to send one representative for personal hearing. Shri Amitabh Chakrabarty, the petitioner no.4 appeared before the Committee on 31st July, 2000 and full opportunity of hearing was granted. The Committee took the above decision and gave its report on 31.07.2000 and copy thereof was given to the petitioner on 1/8/2000. The said report is neither placed on record nor is

separately challenged before this Court. It is produced for the first time alongwith the affidavit of Shri Arvind B. Solanki, Asstt. General Manager, H.R.Department of the Respondent Bank.

24. Thirdly, the court is of the view that the Direct Recruit Officers like the petitioners and the promotee officers are of two different channels of recruitments and if two increments are given to promotee officers under new fitment policy so as to grant them necessary pay protection, the said action is not in violation of Article 14 of the Constitution of India.

25. Fourthly, the Court derives support for arriving at this conclusion, from the above-referred judgment of the Hon'ble Supreme Court in the case of Unika Sankanmi Memon (Supra) wherein it is in terms held that it is entirely wrong to think that every one, appointed to the same post is entitled to claim that he must be paid identical emoluments as may be paid to other person appointed to the same post, disregarding the method of recruitment, or the source from which the officer is drawn for

appointment to that post. No such equality is required either by Article 14 or Article 16 of the Constitution. In G.Shreenivasa Rao's case (Supra) the Hon'ble Supreme Court has succinctly explained this difference and observed that ordinarily grant of higher pay to a junior would ex-facie be arbitrarily but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. While giving illustrations, the Court took note that when persons recruited from different sources are given pay protection or when promotee from lower cadre is given pay protection, the differencia, inter alia, on these grounds would be based on intelligible criteria which has rational nexus with the object sought to be achieved.

26. In view of the above discussion and considering the entire facts and circumstances of the case in the light of law laid down by the Apex Court, the petitioners do not deserve for any relief. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

amit (K.A.PUJ, J.)